



September 2, 1999

Ms. Joni M. Vollman  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002-1700

OR99-2470

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127017.

The Harris County District Attorney's Office received requests for the "district attorney and/or grand jury file on Cheryl Zimmerle." You indicate that you have supplied some of the responsive information to a requestor.<sup>1</sup> However, you seek to withhold a portion of the responsive information, claiming that it is excepted from public disclosure by sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you raise and reviewed the submitted information.

Section 552.108 of the Government Code provides in pertinent part:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

...

- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

...

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<sup>1</sup>We note that two requests were made. The information released to one requestor must also be released to the other. *See* Gov't Code § 552.007(b).

- (c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

You relate that the defendant was not and will not be charged with an offense, and accordingly, the investigation did not result in conviction or deferred adjudication. We conclude that you have met your burden of establishing the applicability of section 552.108(a)(2) with regard to the requested information, and that most of the information contained in these reports therefore may be withheld. Section 552.108 does not, however, except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Because you have raised no other applicable exception to disclosure, the department must release these types of information to the requestor in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

As we resolve this request by application of section 552.108, we do not address your argument raised under section 552.101 of the Government Code. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/ch

Ref: ID# 27017

Encl. Submitted documents

cc: Ms. Cindy Rusnak  
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